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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,445	07/19/2001	Fred S. Cook	1477	9653
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)
	09/909, 445	COOK, FRED S.
	Examiner Tan Dean D. Nguyen	Art Unit 3629
<b>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>		
<p>THE REPLY FILED 02 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.</p> <p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.</p> <p>b) <input checked="" type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p> <p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p> <p><b>NOTICE OF APPEAL</b></p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p> <p><b>AMENDMENTS</b></p> <p>3. <input type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <p>(a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p> <p>NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).</p> <p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input type="checkbox"/> will not be entered, or b) <input checked="" type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: _____.</p> <p>Claim(s) objected to: _____.</p> <p>Claim(s) rejected: <u>1,2 and 4-11</u>.</p> <p>Claim(s) withdrawn from consideration: _____.</p> <p><b>AFFIDAVIT OR OTHER EVIDENCE</b></p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p> <p><b>REQUEST FOR RECONSIDERATION/OTHER</b></p> <p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u></p> <p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.</p> <p>13. <input type="checkbox"/> Other: _____.</p>		

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's comment that Reece fails to teach the step of claim 1 is not persuasive for the following reasons:

1) In step (a), the term "at a retail business", this is taught in Fig. 1, 10 (CPF); col. 3, lines 60-65, "a central processing and switching Facility is provided that serves as an information depot and intermediary or interface between users and service providers to allow seamless communications transfer between the different providers and users"; col. 5, lines 30-55 "... CPF 10 may also be composed of a multitude of smaller distributed facilities". Note that in specification, page 4, lines 10-13, it says that "a retail business is defined as a business providing retail services and having one or multiple locations. Those skilled in the art will appreciate however, that the method according to the present invention could be applied to any 3<sup>rd</sup> party non-service provider ....". Clearly, the CPF is a non-service provider, having one or more multiple facilities, and providing service to the customer thus qualities to be a "retail business". Alternatively, it would have been obvious to a skilled artisan to call this 3<sup>rd</sup> non-service provider and having a multiple locations a retail business as mere similar term for providing business to a customer.

2) In step (a), "providing a wireless transceiver device to a customer", this is taught in col. 3, lines 25-30 "..providing wireless mobile communications devices ", col. 3, lines 60-67, col. 4, lines 6-45. Clearly, with the CPF serve as a payment, billing agent between users and different service providers, processing the switching of the different service providers, and serves as an "intermediary" between the users and the different service providers so that "... the user without requiring individual contract agreements between every user and every service provider " {see col. 4, lines 9-11}, it's inherently included or would have been obvious that the device is provided by the CPF since there is no contract between the user and the service providers.

3) step (b) is taught in col. 4, lines 15-20, 25-47, col. 6, line 65 to col. 7, line 20, col. 13, lines 50-55, col. 17, lines 10-19., Fig. 12.

4) step (c.) is taught in col. 3, lines 37-42,

5) step (d) is taught on col. 4, lines 38-42,

6) step (e) is taught on col. 4, lines 10-12, 38-42, col. 5, lines 30-35.

Note that on col. 4, lines 25-45, and col. 5, lines 30-50, CPF 10 serves as switching facility and facilitate the flexible switching between wireless communication service providers, therefore; it's inherently included or would have been obvious to say that CPF 10 provides the service to the wireless transceiver device of the customer or make the service work between the customer and the service provider since the role of the CPF is keeping track of payment and billing agent between the users and service providers. Clearly, the service cannot be activated if the billing or payment by the CPF is not ready. Applicant's comment that CPF receives communications and provides services rather than receiving and providing services, is noted, however, in view of the teachings on col. 4, lines 6-45, with the goal of not requiring the user to sign individual contract agreements with every service provider, it would have been obvious that CPF has to sign contracts with many service providers and then provides that service to the user based on the selection of the user for the system to work effectively and efficiently. So, it's more than just receiving communication but the capacity for carrying out the service based on a certain contract.